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January 17, 2003

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Application by Verizon Maryland, Verizon Washington, DC and Verizon West Virginia for Authorization To Provide In-Region, InterLATA Services in States of Maryland, Washington, DC and West Virginia, WC Docket No. 02-384

Dear Ms. Dortch:

At the request of FCC staff, Verizon is providing a copy of the PSC of DC dated January 14, 2003. The order postpones a decision on the statistical variations between the Carrier-to-Carrier and Performance Assurance Plan reports.

Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 02-3511.

Sincerely,

A handwritten signature in cursive script, appearing to read "Clint E. Odom".

cc: G. Cohen
G. Gooke
V. Schlesinger

Attachment

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

ORDER

January 14, 2003

FORMAL CASE NO. 990, IN THE MATTER OF DEVELOPMENT OF LOCAL
EXCHANGE CARRIER QUALITY OF SERVICE STANDARDS FOR THE
DISTRICT, Order No. 12632

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") postpones its inquiry into reconciling the different statistical methodologies used in the District of Columbia Carrier-to-Carrier Guidelines ("DC Guidelines")¹ and the District of Columbia Performance Assurance Plan ("DC PAP").² Because the statistical methodology issue is being addressed in proceedings in New York revising the New York Performance Assurance Plan ("NY PAP"), upon which the DC PAP is based, the Commission will address this issue when Verizon Washington DC, Inc. ("Verizon DC") submits revisions to the DC PAP based on revisions to the NY PAP.

II. BACKGROUND

2. On September 9, 2002, the Commission issued Order No. 12451, which adopted the DC PAP.³ The PAP delineates the amounts of incentive payments that Verizon DC will make to competitive local exchange carriers ("CLECs") if it fails to meet the performance standards and benchmarks set forth in the DC Guidelines, which were adopted on November 9, 2001.⁴ In Order No. 12451, the Commission noted that the DC PAP and the DC Guidelines, both of which measure Verizon DC's performance vis-à-vis the CLECs, contain different statistical methodologies to determine whether Verizon DC has met the applicable standards. The Commission sought comments from the parties participating in this proceeding to determine how to reconcile the use of two different statistical methodologies.⁵

¹ *Formal Case No. 990, In the Matter of Development of Local Exchange Carrier Quality of Service Standards for the District*, Order No. 12230, Attachment 1, rel. November 9, 2001.

² *Formal Case No. 990, In the Matter of Development of Local Exchange Carrier Quality of Service Standards for the District*, Order No. 12451, Attachment 1, rel. September 9, 2002

³ Order No. 12451.

⁴ Order No. 12230.

⁵ Order No. 12451, ¶ 158-159.

3. On October 9, 2002, AT&T Communications of Washington D.C., L.L.C. ("AT&T"), the Office of the People's Counsel ("OPC"), and Verizon DC submitted comments responding to Order No. 12451.⁶ AT&T and Verizon DC filed reply comments on October 24, 2002.⁷

III. DISCUSSION

4. In its Comments, Verizon DC urges the Commission to take no action on the inconsistencies between the statistical methodologies contained in the DC Guidelines and the DC PAP at this time. Verizon DC explains that the differences between the statistical methodologies arose in the development of the Guidelines and the PAP, which are two different documents. Verizon DC claims that these inconsistencies are present in most of the Verizon jurisdictions that, like the District of Columbia, have adopted versions of the New York Carrier-to-Carrier Guidelines ("NY Guidelines") and the NY PAP.⁸ Verizon DC argues that the statistical methodology contained in the DC PAP measures Verizon DC's performance satisfactorily.⁹ Verizon DC also contends that the differences between the statistical methodologies have not posed a problem in the administration of the Guidelines and the PAP in other jurisdictions. Verizon DC asserts that there has seldom been an instance in which Verizon passes a standard under one statistical methodology and failed the same or similar standard under the other methodology.¹⁰ Finally, Verizon DC claims that the New York Public Service Commission ("NYPSC") is currently evaluating the statistical methodology inconsistencies. Verizon DC indicates that it will submit any NYPSC decision regarding the statistical inconsistencies to this Commission for consideration. Thus, Verizon DC argues, the inconsistencies between the DC Guidelines and the DC PAP may soon be resolved.¹¹ Thus, no action by the Commission is necessary at this time.

⁶ *Formal Case No. 990, In the Matter of Development of Local Exchange Carrier Quality of Service Standards for the District*, AT&T Communications of Washington D.C., L.L.C.'s Comments in Response to Order No. 12451 ("AT&T Comments"), filed October 9, 2002; The Office of the People's Counsel's Comments in Response to Commission Order No. 12451 ("OPC Comments"), filed October 9, 2002; Verizon Washington DC, Inc.'s Comments on Reconciliation of the Statistical Methodology in the DC PAP and the Statistical Methodology in the DC Guidelines ("Verizon DC Comments"), filed October 9, 2002.

⁷ *Formal Case No. 990, In the Matter of Development of Local Exchange Carrier Quality of Service Standards for the District*, Letter to Sanford M. Speight, Acting Commission Secretary from Ivars V. Mellups, Counsel for AT&T Communications of Washington D.C., L.L.C. ("AT&T Reply Comments"), filed October 24, 2002; Verizon Washington DC, Inc.'s Reply Comments on Reconciliation of the Statistical Methodology in the DC PAP and the Statistical Methodology in the DC Guidelines ("Verizon DC Reply Comments"), filed October 24, 2002.

⁸ Verizon DC Comments at 3.

⁹ Verizon DC Comments at 2.

¹⁰ Verizon DC Comments at 3-4.

¹¹ Verizon DC Comments at 4.

5. AT&T argues that the use of different statistical methodologies in the DC Guidelines and the DC PAP gives rise to three questions regarding: the frequency and magnitude of the inconsistencies; the way in which different outcomes resulting from the use of the different statistical methodologies are presented to the Commission, the parties, and the public; and the effectiveness of using both methodologies.¹² AT&T indicates that the major difference between the two statistical methodologies is the minimum sample size of the operations being evaluated. In the DC PAP, the minimum sample size for measurement is 30 occurrences, while in the DC Guidelines the minimum sample size is six. AT&T argues that this difference is important in jurisdictions like the District of Columbia, which has a lower volume of transactions than does New York.¹³ Thus, it is more likely that there will be occasions when Verizon DC passes the DC PAP standard but fails the DC Guidelines standard. AT&T also contends that Verizon DC should disclose any differences between scoring in the DC Guidelines and the DC PAP under the two statistical methodologies in each monthly report.¹⁴ Because the use of the two different methodologies produces similar results, AT&T urges the Commission to use the statistical methodology used in the DC Guidelines for both the DC Guidelines and the DC PAP because the methodology in the DC Guidelines is the most current methodology.¹⁵

6. OPC claims that both methodologies measure whether Verizon DC has provided the standards set in the DC Guidelines and the DC PAP. OPC asserts that while the statistical methodologies are not inherently inconsistent, reconciliation of these two methodologies may not substantially improve the Commission's ability to determine whether Verizon DC has provided parity service to CLECs. OPC recommends use of the statistical methodology used in the DC Guidelines for both the DC Guidelines and the DC PAP.¹⁶ OPC recommends that the Local Exchange Carrier Quality of Service Working Group ("Working Group") be reconvened if no solution to this problem can be found.¹⁷

7. In response, Verizon DC argues that the Commission should make no changes to the statistical methodologies to be used by the DC Guidelines and the DC PAP at this time. Verizon DC contends that the NYPSC is currently reviewing the statistical methodology inconsistency issue and recommends that the Commission wait until resolution of this issue in New York before attempting to resolve it in the District of

¹² AT&T Comments at 2-3.

¹³ AT&T Comments at 3.

¹⁴ AT&T Comments at 4.

¹⁵ AT&T Comments at 5.

¹⁶ OPC Comments at 1-2, 6.

¹⁷ OPC Comments at 6-7.

Columbia.¹⁸ Verizon DC contends that the statistical methodology in the DC PAP is not so outdated so as to require immediate replacement. Verizon DC argues that the methodology used in the DC PAP has worked satisfactorily in the District of Columbia and other jurisdictions, so immediate replacement is not necessary. Verizon DC also asserts that other jurisdictions that have adopted versions of the NY Guidelines and New York PAP have chosen to wait until the NYPSC revises the NY PAP to amend their respective PAPs.¹⁹

8. AT&T does not oppose waiting for the NYPSC to resolve the statistical methodology issue, as long as the NYPSC acts expeditiously. AT&T indicates that the statistical methodology question is only one of several issues being considered as part of a comprehensive proceeding to review the NY PAP. AT&T questions whether the NYPSC will be able to act expeditiously on this question. Thus, while AT&T supports delaying consideration of the statistical methodology question in the District of Columbia until resolution by the NYPSC, AT&T reserves the right to raise it again in the District of Columbia if the issue is not resolved expeditiously in New York.²⁰

9. Upon review of the parties' filings, the Commission believes that it is appropriate to defer consideration of the statistical methodology issue until it is resolved in New York. Both the DC Guidelines and the DC PAP are based on the NY Guidelines and NY PAP, and the Commission already has processes in place to review expeditiously revisions to the NY Guidelines and the NY PAP. In addition, deferring consideration of the statistical methodology issue until resolution in New York makes the DC Guidelines and DC PAP more consistent with the Guidelines and PAPs used in other Verizon jurisdictions, facilitating competition.

10. Even though the Commission chooses to defer its consideration of the statistical methodology issue until resolution by the NYPSC, the Commission will continue to monitor the reports submitted by Verizon DC under the DC Guidelines and the DC PAP for any inconsistencies created by the use of the different statistical methodologies. Thus, the Commission directs Verizon DC to identify, in each monthly report, instances where Verizon DC meets the standard under either the DC Guidelines or the DC PAP but fails to meet the same or similar standard in the other set of metrics. Verizon DC must also provide the amount, if any, that Verizon DC would have paid if it passes the DC PAP standard but fails the DC Guidelines standard. If the Commission finds that the use of the statistical methodologies produce inconsistent results, the Commission may choose to evaluate this question before the NYPSC has completed its evaluation. Additionally, any party may bring this issue before the Commission at any time for further review pursuant to Section II.K.3 of the DC PAP.²¹

¹⁸ Verizon DC Reply Comments at 1.

¹⁹ Verizon DC Reply Comments at 3.

²⁰ AT&T Reply Comments at 1-2.

²¹ DC PAP, Section II.K.3.

THEREFORE, IT IS ORDERED THAT:

11. The Commission's review of the differences in the statistical methodologies used by the District of Columbia Carrier-to-Carrier Guidelines and the District of Columbia Performance Assurance Plan is **DEFERRED**; and

12. Verizon Washington DC, Inc. is directed to identify standards for each monthly report submitted under the District of Columbia Carrier-to-Carrier Guidelines and the District of Columbia Performance Assurance Plan in which Verizon DC passes one standard in one document but fails the same or similar standard in the other document.

A TRUE COPY

CHIEF CLERK

BY DIRECTION OF THE COMMISSION:

Sanford M. Speight
SANFORD M. SPEIGHT
ACTING COMMISSION SECRETARY